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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Billed Party Preference for 0+ Calls	)	CC Docket No. 92-77
	)	
CompTel's Proposed Rate Ceiling on Operator Service Calls	)	
	)	
and		
Petition for Rulemaking of National Association of Attorneys General Regarding Additional Disclosures by Some Operator Service Providers	)	RM-8606

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AT&T's Comments

Pursuant to the Public Notice released March 13, 1995,[1] AT&T Corp. ("AT&T") hereby comments on the rate ceiling for operator services calls proposed by the Competitive Telecommunications Association ("CompTel") and others and on the Petition for Rulemaking of the National

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[1] Public Notice DA 95-473, Pleading Cycle Established for Comments on CompTel's Filing in CC Docket No. 92-77 Proposing a Rate Ceiling on Operator Service Calls and Pleading Cycle Extended on Petition for Rulemaking of National Association of Attorneys General Proposing Additional Disclosures by Some Operator Service Providers RM-8606.

Association of Attorneys General ("NAAG"), which proposes the adoption of additional disclosure requirements for some Operator Service Providers ("OSPs").

I. Enforcement Of Existing Rules Would Make Rate Ceilings, Like Billed Party Preference, Unnecessary.

On March 7, 1995, CompTel and several other parties met with the Commission and proposed regulations to establish a rate ceiling for operator service calls.[2] The stated purpose of this proposal was to provide a more effective and less costly alternative to the Billed Party Preference ("BPP") proposal that has been under consideration for almost nine years. AT&T agrees with CompTel that "BPP has been overtaken by events."[3] However, AT&T believes that if existing regulations applicable to operator services were adequately enforced, consumers' interests would be fully protected, and additional OSP regulation would be unnecessary and counterproductive.

The 1994 comments and reply comments in CC Docket No. 92-77 clearly demonstrate that BPP is neither necessary nor consistent with the Commission's objectives, because

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[2] CompTel ex parte presentation in CC Docket No. 92-77, dated March 7, 1995 ("CompTel ex parte").

[3] CompTel ex parte, p. 1. See AT&T's Comments in CC Docket No. 92-77 dated August 1, 1994 and its Reply Comments in that docket, dated September 14, 1994.

BPP's staggering costs clearly outweigh any potential benefits. This largely reflects the effect that existing customer education and unblocking activities have had in reducing the number of times customers receive service from providers, or at rates, they do not expect -- the very "problem" that BPP was designed to address.

If the rationale for BPP has evaporated, it follows that there is equally no basis or need for the rate ceiling "alternative" described by CompTel. Clearly, the Commission already has all of the power it needs to monitor and, if necessary, limit or prescribe OSP rates. Section 203 of the Communications Act requires all OSPs to file tariffs for their services, and the Commission readily can assure that OSPs' rates comply with the "just and reasonable" requirements of Section II of the Act. Thus, no additional regulatory mechanisms are necessary to enable the Commission to oversee OSPs' rates.

Moreover, these tariffing rules are only a small fraction of existing regulation governing operator services and OSP practices. The notification and unblocking provisions of Section 226, together with the Commission's implementing rules,[4] require that all callers be informed of the identity and, if they choose, the rates of the OSP

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[4] 47 C.F.R. §§ 64.703-704.

serving each telephone. Moreover, they require that customers be given the ability to access the OSP of their choice from all aggregator telephones. Aggressive enforcement of those rules, combined with OSPs' active marketing of their access codes (including 800 numbers that cannot be blocked from any phone), will assure that callers can always reach their carrier of choice and thereby obtain the rates they expect. The Commission's limited resources should be directed to the enforcement of these existing rules rather than to the creation of additional regulatory requirements.

In addition to being unnecessary, any rate ceiling proposal based on a random or extrinsic formula is fundamentally flawed. Such a rate ceiling would not be based upon or linked to any rates actually charged in the competitive marketplace, or to the cost or value of service offered by an OSP. At a minimum, any OSP rate ceiling should have built-in mechanisms that will allow the ceilings to rise or fall over time in relationship to actual OSP rates in the marketplace, and be derived from a statistically valid sampling of all OSPs' rates.

II. The Additional Disclosure Rules Proposed By NAAG Are Also Unnecessary.

In its proposal, NAAG requests that the Commission adopt a rule requiring OSPs to provide an informational message to callers if their rates are higher than those of the "dominant" carrier. Although AT&T believes that callers should receive appropriate information to enable them to make informed choices, existing notice requirements and other regulations already provide ample safeguards -- if they are enforced and applied.

More fundamentally, AT&T opposes the adoption of any rule that would, in effect, "fix" competing OSP's prices on the basis of a single "dominant" carrier's rates. First, as AT&T has shown, competition in the interexchange market today forecloses the possession or exercise by any carrier of "market power." For this reason, there is no "dominant" carrier for purposes of the NAAG proposal -- notwithstanding outdated classifications based on extinct facts. Even if there were such a carrier, moreover, there could be no legitimate interest in having all other firms set their prices at the dominant firm's rates, which is what NAAG's proposal would encourage. Instead, competitors should price their services on the basis of cost, value and market conditions -- and regulation should facilitate, not impede, this pro-competitive result.

CONCLUSION

At bottom, both the CompTel and NAAG proposals are unwarranted requests to add more regulation to a competitive market that already has too much. Just as there is no conceivable benefit that could justify the expense and intrusion of BPP, there is no need for the "rate ceiling" alternative put forward by CompTel, and no basis for "tying" all firms' prices to the rates of one competitor. It is time now to reduce and remove Commission regulation of interexchange prices -- not increase the market distortion and faulty economic signals inherent in unnecessary regulation.

Respectfully submitted,

AT&T CORP.

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